

REMARKS

Applicants have carefully considered the August 31, 2005 Office Action, and the amendments above together with the comments that follow are presented in a bona fide effort to address all issues raised in that Action and thereby place this case in condition for allowance. Claims 6, 8, 9, 12, 13 and 17-28 were pending in this application. Claims 17-25 have been withdrawn from consideration pursuant to the provisions of 37 C.F.R. § 1.142(b). In response to the Office Action dated August 31, 2005, claim 26 has been amended. Care has been exercised to avoid the introduction of new matter. Adequate descriptive support for the present Amendment should be apparent throughout the originally filed disclosure as, for example, the depicted embodiments (Fig. 2) and related discussion thereof in the written description of the specification (page 4, lines 15 and 25. Applicants submit that the present Amendment does not generate any new matter issue. Entry of the present Amendment is respectfully solicited. It is believed that this response places this case in condition for allowance. Hence, prompt favorable reconsideration of this case is solicited.

The Examiner indicated that independent claims 27 and 28 were allowed, as well as dependent claim 6. During a telephone interview with Examiner Prenty on September 20, 2005, the Examiner confirmed that claim 8, rather than claim 7, was also allowed.

The Examiner objected to claim 26. The Examiner asserted that the phrase "the copper metal" lacks antecedent basis. Applicants have amended the phrase to address the antecedent basis issue identified by the Examiner. Accordingly, reconsideration and withdrawal of the objection are solicited.

Claims 12, 13 and 26 were rejected under 35 U.S.C. § 102(b) for lack of novelty as evidenced by Lee et al (U.S. Pat. No. 6,175,145, hereinafter "Lee"). In the statement of the

rejection, the Examiner referred to col. 4, lines 18-38 and Figs. 3-5 of Lee, asserting the disclosure of a semiconductor device corresponding to that defined in independent claim 26 and dependent claims 12-13. Applicants respectfully traverse.

Applicants would stress that the factual determination of lack of novelty under 35 U.S.C. § 102 requires the identical disclosure in a single reference of each element of a claimed invention, such that the identically claimed invention is placed into the recognized possession of one having ordinary skill in the art. *Dayco Prods., Inc. v. Total Containment, Inc.*, 329 F.3d 1358, 66 USPQ2d 1801 (Fed. Cir. 2003); *Crown Operations International Ltd. v. Solutia Inc.*, 289 F.3d 1367, 62 USPQ2d 1917 (Fed. Cir. 2002). There are significant differences between the claimed invention and the device disclosed by Lee that would preclude the factual determination that Lee identically describes the claimed inventions within the meaning of 35 U.S.C. § 102.

Claim 26, as amended, is directed to a semiconductor device formed on a substrate. The device comprises an interconnection line formed on the substrate and provided to structure a prescribed circuit. A fuse is incorporated into the interconnection line and a passivation film, with a flat surface, covers the fuse. The fuse and a connection portion of the interconnection line are electrically connected to the fuse being formed of different metals. The fuse is formed of a copper metal formed in a damascene process and planarized by a CMP (Chemical Mechanical Polishing) process.

Applicants submit that Lee, at Fig. 4, discloses that oxide covering layer 35 corresponds to a “passivation film” of claim 26. The oxide covering layer 35 covers the barrier metal layer 25 and the conductor layer 30. the oxide covering layer 35 on the fuse pattern 50 has a concave portion between the conductors 30, 30. Consequently, the oxide covering layer 35 on the fuse pattern 50 does not have a flat surface. Accordingly, the rejection of claims under 35 U.S.C. §

102(b) is not legally viable for at least this reason. The above argued difference between the claimed device and that of Lee undermines the factual determination that Lee discloses a device identically corresponding to that claimed. *Minnesota Mining & Manufacturing Co. v. Johnson & Johnson Orthopaedics Inc.*, 976 F.2d 1559, 24 USPQ2d 1321 (Fed. Cir. 1992); *Kloster Speedsteel AB v. Crucible Inc.*, 793 F.2d 1565, 230 U.S.P.Q. 86 (Fed. Cir. 1986). Applicants, therefore, submit that the imposed rejection of claim 12-13 and 26 under 35 U.S.C. § 102 for lack of novelty as evidenced by Lee is not factually viable and, hence, solicit withdrawal thereof.

Moreover, in accordance with the present claimed subject matter, a high energy density portion can stably be formed at the selected fuse by the laser beam, thereby an ensured blowing can be achieved.

Dependent claim 9 was rejected under 35 U.S.C. § 103(a) for obviousness predicated upon Lee in view of Delpech et al. (U.S. Pat. No. 6,271,574, hereinafter “Delpech”). Applicants respectfully traverse the rejection.

Applicants incorporate herein the arguments previously advanced in traversal of the rejection of claims 12-13 and 26 under 35 U.S.C. § 102(b) predicated upon Lee. The secondary reference to Delpech does not cure the argued deficiencies of Lee. Thus, even if the applied references are combined as suggested by the Examiner, and Applicants do not agree that the requisite realistic motivation has been established, the claimed invention will not result. *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 5 USPQ2d 1434 (Fed. Cir. 1988).

It is believed that pending claims 6, 8, 9, 12, 13, 26, 27 and 28 are now in condition for allowance. Applicants therefore respectfully request an early and favorable reconsideration and allowance of this application. If there are any outstanding issues which might be resolved by an

interview or an Examiner's amendment, the Examiner is invited to call Applicants' representative at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP



Brian K. Seidleck
Registration No. 51,321

**Please recognize our Customer No. 20277
as our correspondence address.**

600 13th Street, N.W.
Washington, DC 20005-3096
Phone: 202.756.8000 BKS:idw:apr
Facsimile: 202.756.8087
Date: January 31, 2006